

Section 22.1 Letters of Reprimand Not Subject to Grievance Procedure

Notwithstanding any other provision of this MOU, a Letter of Reprimand issued by the City to any employee shall be handled only in accordance with the provisions of this Section, and shall not be subject to the grievance procedure as provided in Section 25.

(a) The employee shall have thirty (30) days within which to file a written response. Such written response shall be attached to, and shall accompany the Letter of Reprimand.

(b) A Letter of Reprimand, shall be purged from the employee's work record after retention for a period of twenty-four (24) months. This provision shall include removal of Letters of Reprimand issued prior to December 1, 1986.

(c) Within ten (10) calendar days after receipt of a Letter of Reprimand, the employee may, in writing, appeal such to the City Manager for administrative review. The City Manager shall, after affording the employee the opportunity to personally meet with the City Manager, consider the basis for issuance and such written and/or oral objections presented by the employee. Thereafter, the City Manager shall either affirm, rescind, or otherwise modify the disciplinary action.

(d) In the event a Letter of Reprimand, issued subject to this section, is subsequently used to evidence that progressive disciplinary action has been considered in determining the extent of a more severe disciplinary action such letter(s), with any employee response attached thereto as provided in paragraph "A" of this section, shall be submitted on appeal to the reviewing authority for such consideration as the reviewing authority deems appropriate.

Section 23. Pre-disciplinary Hearings

(a) No regular employee shall be demoted, suspended, discharged, or be subjected to a pay reduction for a disciplinary purpose except in accordance with the provisions of this section; provided, however, that this section shall not apply to suspensions of five days or less.

(b) Whenever the City Manager proposes to demote, suspend, or discharge a regular employee in a case in which this section is applicable, the City Manager shall conduct an informal hearing at which the employee shall have the right to respond to the charges. The City Manager shall provide the employee with written notice of the hearing not less than five days prior thereto. The notice shall state the nature of the proposed disciplinary action and the reasons therefore. The notice shall also include a copy of the charges and materials upon which the proposed action is based.

(c) At the hearing, the employee shall have the right to present an oral or written response to the proposed action. Thereafter, the City Manager shall determine, based upon such response and the materials upon which the proposed action was based, whether to impose the action initially imposed, lesser action, or to take no action. The City Manager shall promptly notify the employee in writing of such decision.

(d) If, prior to the hearing, the employee presents to the City Manager a written request that the City Manager be disqualified from conducting the hearing, the City Manager shall assign a designee having no supervisory control over the employee to conduct the hearing. At the conclusion of the hearing, the hearing officer shall recommend to the City Manager the disciplinary action to be taken, if any, and the City Manager shall make a determination which need not be the same as the recommendation and promptly notify the employee in writing of such decision.

Section 24. Suspension

Section 24.1 Suspensions without Pay

An employee in a classification of employment set forth in Appendix "A" hereto may be suspended without pay for a disciplinary purpose.

(a) A department head shall have the power to suspend a subordinate employee without pay for not more than five work days. The department head shall immediately notify the City Manager of the suspension in writing. The City Manager shall have the power to uphold, rescind, reduce, or otherwise modify the disciplinary action.

(b) The City Manager shall have the power to suspend a subordinate employee for an amount of time the City Manager deems appropriate.

(c) It is the intent of this section to allocate to the department head the power to impose minor suspensions without the approval of the City Manager, but with immediate notice to the Manager, to enable the department head to take immediate action to remedy employee misconduct which may pose an immediate threat to the health, safety, or welfare of other employees or to the public at large.

Section 24.2 Administrative Leave With Pay

The City Manager, a department head or immediate supervisor shall have the power to place a subordinate employee on Administrative Leave With Pay status under the following circumstances:

(a) When under investigation of a matter in which the employee may be involved which may lead to disciplinary action against the employee; or,

(b) Pending consideration of possible disciplinary action against the employee; or,

(c) Where the employee's continued presence would, in the judgment of the City, jeopardize the health or safety of the employee or others.

An immediate supervisor placing an employee on such leave shall immediately notify the appropriate department head, who in turn shall immediately notify the City Manager. The City Manager has the power to rescind, extend or otherwise modify the employee's status.